

## Commodity Futures Trading Commission

## § 1.4

broker in satisfaction of the alternative adjusted net capital requirement set forth in §1.17(a)(2)(ii).

(oo) *Leverage transaction merchant.* Means and includes any individual, association, partnership, corporation, trust or other person that is engaged in the business of offering to enter into, entering into or confirming the execution of leverage contracts, or soliciting or accepting orders for leverage contracts, and who accepts leverage customer funds (or extends credit in lieu thereof) in connection therewith.

(pp) *Leverage customer funds.* Means all money, securities and property received, directly or indirectly by a leverage transaction merchant from, for, or on behalf of leverage customers to margin, guarantee or secure leverage contracts and all money, securities and property accruing to such customers as the result of such contracts, or the customers' leverage equity. In the case of a long leverage transaction, profit or loss accruing to a leverage customer is the difference between the leverage transaction merchant's current bid price for the leverage contract and the ask price of the leverage contract when entered into. In the case of a short leverage transaction, profit or loss accruing to a leverage customer is the difference between the bid price of the leverage contract when entered into and the leverage transaction merchant's current ask price for the leverage contract.

(qq) *Leverage contract.* Shall have the same meaning as that set forth in §31.4(w) of this chapter.

(rr) *Foreign futures or foreign options secured amount.* This term means all money, securities and property held by or held for or on behalf of a futures commission merchant from, for, or on behalf of foreign futures or foreign options customers as defined in §30.1 of this chapter:

(1) In the case of foreign futures customers, money, securities and property required by a futures commission merchant to margin, guarantee, or secure open foreign futures contracts plus or minus any unrealized gain or loss on such contracts; and

(2) In the case of foreign options customers in connection with open foreign options transactions money, securities

and property representing premiums paid or received, plus any other funds required to guarantee or secure open transactions plus or minus any unrealized gain or loss on such transactions.

(ss) *Foreign board of trade.* This term means any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options transactions are entered into.

(tt) *Electronic signature* means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(uu) *Opt-out customer.* This term means a customer that is an eligible contract participant, as defined in section 1a(12) of the Act, and that, in accordance with §1.68, has elected not to have funds that are being carried for purposes of trading on or through the facilities of a registered derivatives transaction execution facility, separately accounted for and segregated by the futures commission merchant pursuant to section 4d of the Act and §§1.20–1.30, 1.32 and 1.36. A customer is an opt-out customer solely with respect to agreements, contracts or transactions, and the money, securities or property received by a futures commission merchant to margin, guarantee or secure such agreements, contracts or transactions, made on or subject to the rules of any derivatives transaction execution facility that has adopted rules permitting a customer to elect to be an opt-out customer and with respect to which the customer has made such an election. For all other purposes under the Act and the rules thereunder, except where otherwise provided, an opt-out customer shall be a customer as defined in §1.3(k).

[41 FR 3194, Jan. 21, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §1.3, see the List of CFR Sections Affected, which appears in the Finding Aids sections of the printed volume and on GPO Access.

### § 1.4 Use of electronic signatures.

For purposes of complying with any provision in the Commodity Exchange

## § 1.10

## 17 CFR Ch. I (4–1–02 Edition)

Act or the rules or regulations in this Chapter I that requires a document to be signed by a customer of a futures commission merchant or introducing broker, a pool participant or a client of a commodity trading advisor, an electronic signature executed by the customer, participant or client will be sufficient, if the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor elects generally to accept electronic signatures; *Provided, however*, That the electronic signature must comply with applicable Federal laws and other Commission rules; And, *Provided further*, That the futures commission merchant, introducing broker, commodity pool operator or commodity trading advisor must adopt and utilize reasonable safeguards regarding the use of electronic signatures, including at a minimum safeguards employed to prevent alteration of the electronic record with which the electronic signature is associated, after such record has been electronically signed.

[65 FR 12469, Mar. 9, 2000]

### MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS

#### § 1.10 Financial reports of futures commission merchants and intro- ducing brokers.

(a) *Application for registration.* (1) Except as otherwise provided, a futures commission merchant or an applicant for registration as a futures commission merchant, in order to satisfy any requirement in this part that it file a Form 1-FR, must file a Form 1-FR-FCM, and any reference in this part to Form 1-FR with respect to a futures commission merchant or applicant therefor shall be deemed to be a reference to Form 1-FR-FCM. Except as otherwise provided, an introducing broker or an applicant for registration as an introducing broker, in order to satisfy any requirement in this part that it file a Form 1-FR, must file a Form 1-FR-IB, and any reference in this part to Form 1-FR with respect to an introducing broker or applicant therefor shall be deemed to be a reference to Form 1-FR-IB.

(2) (i) (A) Except as provided in paragraphs (a)(3) and (h) of this section,

each person who files an application for registration as a futures commission merchant and who is not so registered at the time of such filing, must, concurrently with the filing of such application, file either:

(1) A Form 1-FR-FCM certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed; or

(2) A Form 1-FR-FCM as of a date not more than 17 business days prior to the date on which such report is filed and a Form 1-FR-FCM certified by an independent public accountant in accordance with § 1.16 as of a date not more than one year prior to the date on which such report is filed.

(B) Each such person must include with such financial report a statement describing the source of his current assets and representing that his capital has been contributed for the purpose of operating his business and will continue to be used for such purpose.

(ii) (A) Except as provided in paragraphs (a)(3) and (h) of this section, each person who files an application for registration as an introducing broker and who is not so registered at the time of such filing, must, concurrently with the filing of such application, file either:

(1) A Form 1-FR-IB certified by an independent public accountant in accordance with § 1.16 as of a date not more than 45 days prior to the date on which such report is filed;

(2) A Form 1-FR-IB as of a date not more than 17 business days prior to the date on which such report is filed and a Form 1-FR-IB certified by an independent public accountant in accordance with § 1.16 as of a date not more than one year prior to the date on which such report is filed;

(3) A Form 1-FR-IB as of a date not more than 17 business days prior to the date on which such report is filed, *Provided, however*, that such applicant shall be subject to a review by the applicant's designated self-regulatory organization within six months of registration; or

(4) A guarantee agreement.

(B) Each person filing in accordance with paragraphs (a)(2)(ii)(A) (1), (2) or (3) of this section must include with